

<p style="text-align: center;"><b>PROCEDURAL ISSUES</b></p> <p style="text-align: center;"><b>CHANGE OF JUDGE FOR CIVIL AND CRIMINAL CASES</b></p> <p style="text-align: center;">Trial Rules 76 and 79</p>	<p><b>CONTACT:</b>  <b>Tom Carusillo</b>  <a href="mailto:tom.carusillo@courts.IN.gov">tom.carusillo@courts.IN.gov</a>  Direct: 317-233-2779  30 S. Meridian St., Suite 500  Indianapolis, IN 46204  Main: 317-232-2542  Fax: 317-233-6586</p>
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A change of judge in a civil case can arise in two basic scenarios: (1) a motion for change of judge under [Ind. Trial Rule 76](#), and (2) disqualification or recusal under [Ind. Trial Rule 79](#)(C).

Effective January 1, 2013, the method of selecting special judges in civil cases changed dramatically. Regardless of the reason for naming a special judge, the first step is under Trial Rule 79(D), which provides the parties seven (7) days to agree on a special judge. A judge selected under TR 79(D) then has seven (7) days from the date the appointment is noted on the Chronological Case Summary to decide whether to accept the case.

If a special judge is not obtained under TR 79(D), the next step is selection pursuant to local rule as provided in TR 79(H). Striking panels, as previously set out in TR 79(F), have been abolished and are no longer used. A special judge selected by local rule may not simply decline to accept the case. Unless the selected judge is disqualified pursuant to the Code of Judicial Conduct, ineligible to serve under this rule, or excused by the Supreme Court, the selected judge must accept the case.

If a special judge is not obtained pursuant to local rule, or if the particular circumstances of the case warrant, the case may be certified to the Supreme Court for the appointment of a special judge.

### **Change of Judge for Criminal Cases**

A change of judge in a criminal case is controlled by [Ind. Criminal Rule 13](#). Effective April 5, 2013, the distinction between counties with four or more judges who receive felony or misdemeanor cases and those counties with fewer than four such judges was abolished. Now, in all counties a special judge is selected in the same manner used to select the original judge. When this process does not result in obtaining a special judge then a selection is made pursuant to local rule. The local rule required by Ind. Criminal Rule 2.2 must include an alternative assignment list with 1) judges from contiguous counties; 2) judges from within the county's administrative district as set out in Administrative Rule 3(A); and 3) senior judges assigned to the court. Criminal Rule 13(C).

The judge selected as special judge under a local rule must accept jurisdiction unless disqualified pursuant to the Code of Judicial Conduct, ineligible to serve under this rule, or excused by the Supreme Court.

Where no judge is available for appointment under local rule or the particular circumstances of the case warrant, a trial judge may request the Supreme Court to appoint a special judge.

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